

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JOHN W. INMAN,

Plaintiff,

v.

DAVID THAWLEY, an individual, JOHN
LILLEY, an individual, UNIVERSITY AND
COMMUNITY COLLEGE SYSTEM OF
NEVADA, a political subdivision of the State
of Nevada,

Defendants.

03:05-CV-0157-LRH-VPC

ORDER

Presently before the court is Plaintiff John Inman's Motion for Stay of Judgment Pending Appeal (#73¹). Defendants David Thawley, John Lilley, Hudson Glimp, and University and Community College System of Nevada have filed an opposition to Plaintiff's motion (#74).

I. Procedural History

On March 27, 2007, this court granted Defendant's motion for summary judgment. Accordingly, judgment was entered the same day. On May 16, 2007, the clerk taxed costs at \$3,534.85 in favor of Defendants. On October 5, 2007, Plaintiff filed a motion asking this court to stay its judgment on the bill of costs pending Plaintiff's appeal (#73).

¹ Refers to the court's docket.

1 **II. Discussion**

2 Plaintiff's motion asks this court to stay execution on the bill of costs pending the
3 outcome of his appeal. Further, Plaintiff states he is willing to post a \$300 bond with the clerk to
4 secure a stay.

5 Plaintiff's motion for a stay is deficient because it does not comply with Federal Rule of
6 Civil Procedure 62(d). That rule provides the following:

7 If an appeal is taken, the appellant may obtain a stay by supersedeas bond The bond
8 may be given upon or after filing the notice of appeal or after obtaining the order
allowing the appeal. The stay takes effect when the court approves the bond.

9 This court's authority to issue a stay is generally conditioned upon approval of a bond. *Vacation*
10 *Village, Inc. v. Clark Cnty.*, 497 F.3d 902, 913 (9th Cir. 2007) ("Federal Rule of Civil Procedure
11 62(d) . . . requires only that the appellant post a supersedeas bond in order to obtain a stay on
12 appeal."); *Columbia Pictures Television, Inc. v. Krypton Broadcasting of Birmingham, Inc.*, 259
13 F.3d 1186, 1197 n.6 (9th Cir. 2001) ("An appellant may obtain a formal stay of the judgment
14 pending appeal by posting a supersedeas bond."). Here, Plaintiff has not posted a bond to secure its
15 obligation to pay the bill of costs. While there is some authority for the proposition that this court
16 may grant a stay without requiring Plaintiff to post a bond, *see In re Combined Metals Reduction*
17 *Co.*, 557 F.2d 179, 193 (9th Cir. 1977), Plaintiff has presented neither any evidence nor
18 circumstances that would warrant exercise of this discretion. Plaintiff's motion is therefore denied.

19 IT IS THEREFORE ORDERED that Plaintiff's Motion for Stay of Judgment Pending
20 Appeal (#73) is DENIED.

21 IT IS SO ORDERED.

22 DATED this 25th day of February, 2008.



23
24
25 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE